

\*E-filed 1/26/09\*

NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

JOSE DE LA PAZ SORTO, on behalf of himself  
and all other similarly situated plaintiffs,

Plaintiff,

v.

HANNEGAN, BENSON & CO., INC. doing  
business as C.B. HANNEGAN'S, CHRIS  
BENSON, DOES 1-10,

Defendants.

Case No. C08-00189 HRL

**ORDER DENYING PLAINTIFF'S  
REQUEST FOR ENTRY OF A DEFAULT  
JUDGMENT**

Re: Docket No. 12

Plaintiff's complaint<sup>1</sup> alleges violations of California's labor laws and the Federal Fair Labor Standards Act. No defendant has answered the complaint to date, although the record indicates that they have all been served. Plaintiff never asked for, or received, an entry of default. *See* Fed. R. Civ. P. 55(a). In July, plaintiff filed a "Request for Entry of Default Judgment." Because the request is procedurally improper, the court DENIES it without prejudice.

**IT IS SO ORDERED.**

Dated: 1/26/09



HOWARD R. LLOYD  
UNITED STATES MAGISTRATE JUDGE

<sup>1</sup>Plaintiff filed his initial complaint in January, 2008, then filed an amended complaint six months later. Because the defendants had not filed responsive pleading, the amended complaint is operative. *See* Fed. R. Civ. P. 15(a)(1)(A).

1 THIS IS TO CERTIFY THAT A COPY OF THIS NOTICE WILL BE SENT TO:

2 Adam Wang waqw@sbcglobal.net

3  
4 \*Counsel are responsible for providing copies to co-counsel who have not registered for e-filing.

5  
6 Dated: 1/26/09

7 /s/ MPK

8 Chambers of Magistrate Judge Howard R. Lloyd